UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,978	11/25/2003	Alexander Bekker	PREDYN-44675	9035

26252 7590 10/23/2006

KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

EXAMINER	
HOGE, GARY CHAPMAN	
ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/722,978	BEKKER, ALEXANDER	
	Examiner	Art Unit	
	Gary C. Hoge	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11,14-34,37-49,52-61 and 87-94* is/are pending in the application.

4a) Of the above claim(s) *24-27,38-41 and 59-61* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11,14-23,28-34,37,42-49,52-58 and 87-94* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 24-27, 38-41 and 59-61 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 15, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-4, 11, 14, 16, 20, 28-31 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202).

Castagna discloses an identification tag system comprising a generally rectangular elastomeric (column 2, lines 18-20) identification tag **1** having a long dimension and a short dimension (Fig. 1), the tag including a pair of slots **2** therethrough and means **5** for receiving information associated with a specific wearer or object; an elongated strap **3** and related fastening means for configuring and retaining the strap in a closed loop shape of selected circumferential size wrapped about a portion of the specific wearer or object.[1] The identification tag **1** is mounted onto the exterior of the strap **3** and has a size and shape to extend beyond the width of the strap (Fig. 3). However, it is not known whether the strap disclosed by Castagna is

[1] The strap **3** disclosed by Castagna is a pet collar. The collar must be discontinuous, else the tag **1** could not be threaded onto it. Therefore, it must also have a fastening means, in order to fasten it about the animal's neck. Such features are conventional and are inherent in the disclosure of Castagna.

elastomeric. Doyle teaches that it was known in the art to make a pet collar out of elastomeric material (column 1, lines 65-68). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pet collar disclosed by Castagna out of elastomeric material, as taught by Doyle, in order to enable the collar to be made easily by molding under heat and pressure.

Regarding claim 20, it would have been obvious to include a plurality of tags on the strap disclosed by Castagna because it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

4. Claims 5-7 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202), as applied to claim 2, above, and further in view of Fearing et al. (2002/0066418).

Castagna discloses the invention substantially as claimed, as set forth above. However, Castagna only discloses providing human-readable indicia (column 1, line 66). Fearing teaches that it was known in the art to provide an animal identification tag with both human-readable and machine-readable indicia. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by Castagna with machine-readable indicia in addition to the human-readable indicia, as taught by Fearing, in order to allow the tag to be read by a machine and to thereby allow the animal to be associated with information stored in a database.

5. Claims 8, 9, 10, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202), as applied to claims 2 and 1, respectively, above, and further in view of Grose et al. (2002/0054940).

Castagna discloses the invention substantially as claimed, as set forth above. However, Castagna only discloses providing human-readable indicia (column 1, line 66). Grose teaches that it was known in the art to provide an animal identification tag with both human-readable indicia and an RFID chip. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by Castagna with an RFID chip, as taught by Grose, in order to allow the tag to be read by a machine and to thereby allow the animal to be associated with information stored in a database.

Regarding claims 10 and 34, Grose teaches that "the RFID tag 12 may be of any variety known to those skilled in the art, and is sized such that it may be embedded in the band 10" (paragraph [0039]).

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202), as applied to claim 1, above, and further in view of Tinklenberg et al. (6,058,639).

Castagna discloses the invention substantially as claimed, as set forth above. However, the tag is oriented with its long dimension aligned with the long dimension of the strap. Tinklenberg teaches that it was known in the art to orient a tag with its long dimension extending generally perpendicular to the long dimension of the strap to which it is attached. It would have been obvious to one having ordinary skill in the art at the time the invention was made to orient the tag disclosed by Castagna with its long dimension extending generally perpendicular to the

long dimension of the strap, as taught by Tinklenberg, in order to accommodate more information on the tag.

7. Claims 17-19, 22, 23, 42-45, 49, 52, 53 and 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202), as applied to claim 1, above, and further in view of Duncan (6,058,637).

Castagna discloses the invention substantially as claimed, as set forth above. However, it is not known how the tags are formed. Duncan teaches that it was known in the art to form identification tags such that a plurality of them are detachably interconnected to each other, and to feed those tags through a printer (i.e., a processor station), to print information thereon. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of the tags disclosed by Castagna, and to attach them detachably together, as taught by Duncan, in order to enable efficient processing of multiple tags through a printer.

Regarding claims 19 and 56, a roll is a very long, very narrow sheet.

Regarding claims 23 and 58, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make some of the tags larger than the others because such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202), as applied to claim 20, above, and further in view of McDermott (3,965,589).

Castagna discloses the invention substantially as claimed, as set forth above. However, Castagna does not disclose color-coding the tag. McDermott teaches that it was known in the art to color code an identification tag (paragraph [0007]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to color-code the tags disclosed by Castagna, as taught by McDermott, in order to make them more easily identifiable.

9. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202) and Duncan (6,058,637), as applied to claim 45, above, and further in view of Fearing et al. (2002/0066418).

Castagna discloses the invention substantially as claimed, as set forth above. However, Castagna only discloses providing human-readable indicia (column 1, line 66). Fearing teaches that it was known in the art to provide an animal identification tag with both human-readable and machine-readable indicia. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by Castagna with machine-readable indicia in addition to the human-readable indicia, as taught by Fearing, in order to allow the tag to be read by a machine and to thereby allow the animal to be associated with information stored in a database.

10. Claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202) and Duncan (6,058,637), as applied to claim 42, above, and further in view of Grose et al. (2002/0054940).

Castagna discloses the invention substantially as claimed, as set forth above. However, Castagna only discloses providing human-readable indicia (column 1, line 66). Grose teaches that it was known in the art to provide an animal identification tag with both human-readable

indicia and an RFID chip. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by Castagna with an RFID chip, as taught by Grose, in order to allow the tag to be read by a machine and to thereby allow the animal to be associated with information stored in a database.

Regarding claim 48, Grose teaches that "the RFID tag 12 may be of any variety known to those skilled in the art, and is sized such that it may be embedded in the band 10" (paragraph [0039]).

11. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202) and Duncan (6,058,637), as applied to claim 42, above, and further in view of McDermott (3,965,589).

Castagna discloses the invention substantially as claimed, as set forth above. However, Castagna does not disclose color-coding the tag. McDermott teaches that it was known in the art to color code an identification tag (paragraph [0007]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to color-code the tags disclosed by Castagna, as taught by McDermott, in order to make them more easily identifiable.

12. Claims 87-90 and 94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202) and Tinklenberg et al. (6,058,639).

Castagna discloses an identification tag system comprising a generally rectangular elastomeric (column 2, lines 18-20) identification tag **1** having a long dimension and a short dimension (Fig. 1), the tag including a pair of slots **2** therethrough and means **5** for receiving information associated with a specific wearer or object; an elongated strap **3** and related fastening means for configuring and retaining the strap in a closed loop shape of selected

circumferential size wrapped about a portion of the specific wearer or object.[2] The identification tag **1** is mounted onto the exterior of the strap **3** and has a size and shape to extend beyond the width of the strap (Fig. 3). However, it is not known whether the strap disclosed by Castagna is elastomeric. Doyle teaches that it was known in the art to make a pet collar out of elastomeric material (column 1, lines 65-68). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pet collar disclosed by Castagna out of elastomeric material, as taught by Doyle, in order to enable the collar to be made easily by molding under heat and pressure. Further, the tag disclosed by Castagna is oriented with its long dimension aligned with the long dimension of the strap. Tinklenberg teaches that it was known in the art to orient a tag with its long dimension extending generally perpendicular to the long dimension of the strap to which it is attached. It would have been obvious to one having ordinary skill in the art at the time the invention was made to orient the tag disclosed by Castagna with its long dimension extending generally perpendicular to the long dimension of the strap, as taught by Tinklenberg, in order to accommodate more information on the tag.

13. Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202) and Tinklenberg et al. (6,058,639), as applied to claim 90, above, and further in view of Fearing et al. (2002/0066418).

Castagna discloses the invention substantially as claimed, as set forth above. However, Castagna only discloses providing human-readable indicia (column 1, line 66). Fearing teaches that it was known in the art to provide an animal identification tag with both human-readable and machine-readable indicia. It would have been obvious to one having ordinary skill in the art at

[2] The strap **3** disclosed by Castagna is a pet collar. The collar must be discontinuous, else the tag **1** could not be

the time the invention was made to provide the tag disclosed by Castagna with machine-readable indicia in addition to the human-readable indicia, as taught by Fearing, in order to allow the tag to be read by a machine and to thereby allow the animal to be associated with information stored in a database.

14. Claims 92 and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castagna (5,503,114) in view of Doyle (2,791,202) and Tinklenberg et al. (6,058,639), as applied to claim 87, above, and further in view of Grose et al. (2002/0054940).

Castagna discloses the invention substantially as claimed, as set forth above. However, Castagna only discloses providing human-readable indicia (column 1, line 66). Grose teaches that it was known in the art to provide an animal identification tag with both human-readable indicia and an RFID chip. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tag disclosed by Castagna with an RFID chip, as taught by Grose, in order to allow the tag to be read by a machine and to thereby allow the animal to be associated with information stored in a database.

Regarding claim 93, Grose teaches that "the RFID tag 12 may be of any variety known to those skilled in the art, and is sized such that it may be embedded in the band 10" (paragraph [0039]).

Response to Amendment

15. The declaration filed on May 2, 2006 under 37 CFR 1.131 is moot because all of the references applied against the claims were published more than a year before the filing date of the instant application

---

threaded onto it. Therefore, it must also have a fastening means, in order to fasten it about the animal's neck. Such

Response to Arguments

16. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

---

features are conventional and are inherent in the disclosure of Castagna.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gary C Hoge
Primary Examiner
Art Unit 3611

gch